

paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The specification, and specifically Claims 1, 9, and 11 have been amended so as to overcome the aforementioned rejection by the examiner under 35 U.S.C. 112, second paragraph.

The examiner respectfully rejected Claims 1, 6, and 10 under 35 U.S.C. 102(b) as being anticipated by Cooper.

In undertaking to determine whether one reference anticipates another under 35 U.S.C. 102(b), a primary tenet is that the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Many differences exist between the invention claimed in Cooper and the currently claimed invention. Cooper teaches a disposable bib which lends itself to packaging in a convenient roll for instant use. To briefly summarize the distinguishing features and characteristics between the two, Cooper fails to teach the following elements and features: a neck ring perforation having an overall diameter of approximately four inches, wherein the neck ring perforation is located at its centerpoint at approximately 3-1/2 inches below an uppermost linear edge, and is formed at three tears per inch; a bib including a concave lower protrusion extending downward from the main planar surface at a lower boundary in a symmetric, curvilinear manner having an upward arching lowermost point

that smoothly transitions at each end to a horizontal extension at each of the side-most portions of the lower perimeter edge of the bib, and a convex upper indentation protruding inward into the main planar surface at the upper boundary of the bib, wherein the convex upper indentation is formed in a symmetric, curvilinear manner having an upward arching lowermost point that smoothly transitions at each end to a horizontal extension at each of the side-most portions of the upper perimeter edge of the bib; a plurality of linearly aligned, rolled bibs adapted for disposable use, wherein each roll of bibs comprising a plurality of individual bib elements, wherein each bib element comprising a concave lower protrusion extending downward from the main planar surface at a lower boundary in a symmetric, curvilinear manner having an upward arching lowermost point that smoothly transitions at each end to a horizontal extension at each of the side-most portions of the lower perimeter edge of the bib, and a convex upper indentation protruding inward into the main planar surface at the upper boundary of the bib, wherein the convex upper indentation is formed in a symmetric, curvilinear manner having an upward arching lowermost point that smoothly transitions at each end to a horizontal extension at each of the side-most portions of the upper perimeter edge of the bib; and a bib formed of a nonwoven, smooth calendered, lower linting fabric composed of virgin bleached wood pulp fiber and a polymer emulsion.

The examiner respectfully rejected Claims 1, 6, and 10 under 35 U.S.C. 102(b) as being anticipated by Rose. Rose teaches disposable bibs having a perforated neck piece and affixing tabs.

However, like Cooper, Rose fails to teach the following elements and features: a neck

ring perforation having an overall diameter of approximately four inches, wherein the neck ring perforation is located at its centerpoint at approximately 3-1/2 inches below an uppermost linear edge, and is formed at three tears per inch; a bib including a concave lower protrusion extending downward from the main planar surface at a lower boundary in a symmetric, curvilinear manner having an upward arching lowermost point that smoothly transitions at each end to a horizontal extension at each of the side-most portions of the lower perimeter edge of the bib, and a convex upper indentation protruding inward into the main planar surface at the upper boundary of the bib, wherein the convex upper indentation is formed in a symmetric, curvilinear manner having an upward arching lowermost point that smoothly transitions at each end to a horizontal extension at each of the side-most portions of the upper perimeter edge of the bib; a plurality of linearly aligned, rolled bibs adapted for disposable use, wherein each roll of bibs comprising a plurality of individual bib elements, wherein each bib element comprising a concave lower protrusion extending downward from the main planar surface at a lower boundary in a symmetric, curvilinear manner having an upward arching lowermost point that smoothly transitions at each end to a horizontal extension at each of the side-most portions of the lower perimeter edge of the bib, and a convex upper indentation protruding inward into the main planar surface at the upper boundary of the bib, wherein the convex upper indentation is formed in a symmetric, curvilinear manner having an upward arching lowermost point that smoothly transitions at each end to a horizontal extension at each of the side-most portions of the upper perimeter edge of the bib; and a bib formed of a nonwoven, smooth calendered, lower linting fabric composed of virgin bleached wood pulp fiber and a polymer emulsion.

Therefore, because of the numerous aforementioned differences between Cooper, Rose, and the present invention, the examiner's rejection of Claims 1, 6, and 10 under 35 U.S.C. 102(b) based upon these references is inappropriate.

The examiner respectfully rejected Claims 2, 3, 8, 9, and 11 under 35 U.S.C. 103(a) as being unpatentable over Cooper. The differences between Cooper and the present invention have been stated above.

The examiner respectfully rejected Claims 4, 5, and 7 under 35 U.S.C. 103(a) as being unpatentable over Rose in view of Bodner et al. The differences with respect to Rose have been stated above. Bodner et al. teaches a disposable bib formed in a multilayer arrangement and having adhesive strips.

However, unlike the present invention, Bodner et al. fails to teach a bib having a convex upper indentation protruding inward into the main planar surface at the upper boundary of the bib, wherein the convex upper indentation is formed in a symmetric, curvilinear manner having an upward arching lowermost point that smoothly transitions at each end to a horizontal extension at each of the side-most portions of the upper perimeter edge of the bib; a supporting means comprising a neck ring perforation placed near, but slightly below the uppermost edge, wherein the neck ring perforation having an overall diameter of approximately four inches and is formed at three tears per inch; a plurality of linearly aligned, rolled bibs adapted for disposable use, where each roll of bibs is comprised of a plurality of individual bib elements, wherein each bib element comprises a convex upper indentation protruding inward into the main planar surface at the upper boundary of the bib; and the bib being formed of a nonwoven, smooth calendered,

lower lining fabric composed of virgin bleached wood pulp fiber and a polymer emulsion.

Therefore, because of the numerous discrepancies between Rose, Bodner et al., and the present invention, the examiner's rejection of Claims 4, 5, and 7 under 35 U.S.C. 103(a) as being unpatentable over Rose in view of Bodner et al. is inappropriate.

Furthermore, it is felt that the differences between the present invention and all of these references are such that rejection based upon 35 U.S.C. 103(a), in addition to any other art, relevant or not, is also inappropriate. However, by way of additional argument application wishes to point out that it is well established at law that for a proper *prima facie* rejection of a claimed invention based upon obviousness under 35 U.S.C. 103, the cited references must teach every element of the claimed invention. Further, if a combination is cited in support of a rejection, there must be some affirmative teaching in the prior art to make the proposed combination. See Orthopedic Equipment Company, Inc. et al. v. United States, 217 USPQ 193, 199 (Fed. Cir. 1983), wherein the Federal Circuit decreed, "Monday Morning Quarter Backing is quite improper when resolving the question of obviousness." Also, when determining the scope of teaching of a prior art reference, the Federal Circuit has declared:

"[t]he mere fact that the prior art could be so modified should not have made the modification obvious unless the prior art suggested the desirability of the modification." (Emphasis added). In re Gordon, 221 USPQ 1125, 1127 (Fed. Cir. 1984).

There is no suggestion as to the desirability of any modification of the references to describe the present invention. An analysis of the disclosures within the cited references fails to cite every element of the claimed invention. When the prior art references require a selective


combination to render obvious a subsequent claimed invention, there must be some reason for the selected combination other than the hindsight obtained from the claimed invention itself. Interconnect Planning Corp v. Feil, 774 F.2d 1132, 227 USPQ 543 (CAFC 1985). There is nothing in the prior art or the examiners arguments that would suggest the desirability or obviousness of the combination of features of the disposable paper bib. Uniroyal, Inc. v. Rudkii-Wiley Corp., 837 F.2d 1044, 5 USPQ 2d 1432 (CAFC 1988). The examiner seems to suggest that it would be obvious for one of ordinary skill to attempt to produce the currently disclosed invention. However, there must be a reason or suggestion in the art for selecting the design, other than the knowledge learned from the present disclosure. In re Dow Chemical Co., 837 F.2d 469, 5 USPQ 2d 1529 (CAFC 1988); see also In re O'Farrell, 853 F.2d 894, 7 USPQ 2d 1673 (CAFC 1988).

To summarize, it appears that only in hindsight does it appear obvious to one of ordinary skill in the pertinent art to combine the present claimed and disclosed combination of elements. To reject the present application as a combination of old elements leads to an improper analysis of the claimed invention by its parts, and instead of by its whole as required by statute. Custom Accessories Inc. v. Jeffery-Allan Industries, Inc., 807 F.2d 955, 1 USPQ 2d 1197 (CAFC 1986); In re Wright, 848 F.2d 1216, 6 USPQ 2d 1959 (CAFC 1988).

Therefore, in view of foregoing amendments and clarifications, the applicant submits that allowance of the present application and all remaining claims, as amended, is in order and is requested.

Respectfully submitted,

Utility Patent  
Ser. No. 09/836,762

A handwritten signature in black ink, appearing to read "P. Jeff Martin".

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**In the Specification**

On page 5, line 12, delete the numeral "12" and replace with --10--.

On page 5, line 18, delete the numeral "25" and replace with --23--.

On page 7, line 2, after the word "structure" insert --21--.

On page 7, line 8, delete the first occurrence of the word "the".

On page 7, line 8, delete the numeral "25" and replace with --23--.

On page 7, line 15, after the word "tabs" insert --25--.

On page 7, line 16, after the word "tabs" insert --25--.

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**In the Claims**

Please amend the following claims by deleting the language which is enclosed in brackets "[ ]" and inserting the language which is underlined "\_\_\_\_\_".

1.(Once Amended) A bib forming a generally rectangular planar surface having a first vertical edge parallel to and opposite from a second vertical edge, said first vertical edge being straight and smooth, and [parallel to] said second vertical edge[which is]also being straight and smooth, said bib comprising:

supporting means comprising a neck ring perforation placed near, but slightly below the uppermost edge, and formed in a circular manner.



9. (Once Amended) The bib of Claim 1, wherein said bib [element] has an overall width of approximately nine and one-half inches and an overall length of approximately fourteen and one-half inches.

11.(Once Amended) The bib of Claim 1, wherein said bib [element] is formed of a nonwoven, smooth calendered, lower linting fabric composed of virgin bleached wood pulp fiber and a polymer emulsion.